

P 47E

App. F. IX-4

Previous References.

1946-47
(V. P.)

File No. 28/46

Serial Nos. 105 + 14, 15
12. 73

Later References.

vt 246-8106

GENERAL AND REVENUE SECRETARIAT

Serial Nos.

Four

~~02200~~

Part B for

March 17

SUBJECT

Appeal petition of Messrs H. G.
Thimmiah and others of K. M. M. A. P. M.
Village, Kadur Taluk, N. Chikmagalur
District, for a part to be
of the village for a part to be
Bureau ground

2 12 818 of 20.3.47

D. + Kadur
Chikmagalur
request him

with refer to

to take immediate further

action and put V. P. in force

was in the same

no. R 2014)

Appeal petn by the villagers of
G. Thummapura, Xasaba Hobli
Kadmi Taluk re the acquisition
of 2 acres of land in S. Nos 5 & 2 of the
village

(R 2074)

1) The petition is presented
as a regular Appeal against the
order of the Deputy Commr, Kadmi Taluk,
filing the necessary Vakalatnama
by an Advocate and producing
copy of the order etc as required by rules

Hence this together with (R 2049)

the stay application in the same
Case may perhaps be dealt in
the Appeals Section

S
4/10

2) Does it not relate to
RS & Por

8/10 P

2074/8

Sold

The Subject matter of
the petition relates to an
approach-road to a village
the cost of which has been paid
from the village panchayat fund and
as such may perhaps be transferred
to L. S. by Branch.

S -
9/10 L.S.G)

Recd
9/10

Wm H L M

107046



- 3) The subject matter of the petition relates to an approach road to a village, the cost of which has been paid from ^{out of} the village Panchayat fund and as much may perhaps be transferred to R S B Branch

9x

Mr. M.

10.10.46.

- 4) It is seen from the petition that the villagers want that ~~some~~ ^{the} land in S. No 5 and 2.

of G. Nirmalpur, a,

Madur Taluk belonging to
one Krishnaswami Gungar
be awarded for a road to
the burial ground and also
on the burial ground

5) It would appear that
the former is attempting to
ward off the proceedings
the petitioners pray that a
stay order be issued against
the orders of the D.C. regarding
the area and to describe
the area land for reasons
stated in their petition

6) In order if a stay order
be issued

7) (2) records called for from
the District

10.10.46. 8) No stay order appears. Call
the records will be called for if the case
examined necessary from 27.10.46

Area of lands in of ...
 3009 J4202 J4827
 2

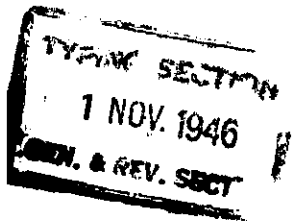
16) Jmef
 31. Nov

to

the D.C. Kadur dist

L5461 d 2.11.46.

Acknowledgment ^{subt} to Mr. Jc.
 Venappa, Advocate, Canny
 Bangalore



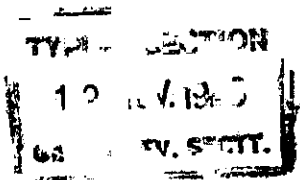
subt

2.11.46.

17) Subd with a reminder
 19.11.46

18) Jmef
 19/11/46

to the D.C. Kadur dist
 L7473 d 2.11.46
 reminds.



2/c Jmef
 19/11/46

Sub A
 2

Letter no A4 1957/46
 dated 29.11.46 from the D.C.
 Kadur.

19) Subd with rem reply
 of the D.C. 3.11.46
 rem
 4/12/46

20) Subd with rem reply
 2.11.46

19/11/46

Sub B.

Sub B.

Letter no A4 c 1957/46-47
 dated 18.12.1946 from the
 D.C. Kadur.

the D.C. Kadur dist
 has

3009 2

9) Records may be called for
(Exd)

OFFICE OF THE MINISTER
FOR REVENUE AND
PUBLIC WORKS
30.10.46
No 3200

Minister for Agr & P
(P25)

done
24/10/
24.10.46

OFFICE OF THE MINISTER
FOR REVENUE
No. 3155
Date 28-10-46

10) Yes - A detailed report a
parts 6 & 12 mentioned in the
petition may also be obtained

(This was mixed up with the
file relating to the inspection
report of S. Sengapalan
Municipal Office. A copy
from Caretaker in the file
of the office - May be detail
shall be separated)

h
27/10
28/10/46

11) Subd. wrote a draft letter to
de, Madras at calling for records

12) An order to Mr. G. C. Veerappa
counsel to two petitioners is also put up

29.10.46. 13) By mistake in the Branch, this

file was sent to the Minister for
Revenue instead of to the
Minister for Agr & P. So when
it was found wrong again.

15) done
31/10/46
Minister for Agr & P
(P25)

done 30/10/46
29.10.46

420254827

Agree of lands in E. Thimma
part ^{leader} has reported that the agree

is asked for more on account
of the personal differences
existing between the mission-
aries and the villagers.
Even for the real need ~~for~~ of
a road ^{the} on the spot in question
the report of the D.C. explains
that sometimes we have
disputed the land and have
expressed that the agree is
unreasonable they were
not sufficient of encouraging
the villagers to invoke the
provisions of L.A. Act
to achieve an object, having
its origin in ^{it will} ~~personal~~ ^{be}.

2) In order if the petition
be rejected in the circumstances
reported by the D.C. leader.

On 12/46 Ref to para 15 Supra
For personal order with 2/4
For para 9, 10 175. Supra
Respectfully 28/12/46

Serial
No.

20 I visited the spot on the 10th instant along with the Deputy Commissioner, Kadur District and the parties. I am convinced that the request of the petitioners is a reasonable one. In fact, the road in question has been in existence for over 7 or 8 years. The Chairman of the Village Panchayet produced before me the proceedings of the Village Panchayet dated 6th September 1938. They have resolved therein that on their request made to the Deputy Commissioner, when he visited on 17.1.1938 for acquiring 2-22 for a burial ground and a well and 0-18 guntas for a road, the proceedings have been initiated. They have further resolved that the cost of acquisition may be advanced out of the Village Panchayet ^{funds} and later recouped by the villagers. They have further prayed that they may be exempted from paying any cost for the portion of the land shown as kharab.

21 Subsequently, two more resolutions have been passed on 15.1.1943 and 1.2.1943 respectively, authorising the Chairman to prepare an approach road from the village to Bangalore - Honnavar road and to meet the cost by maintaining a nominal roll. The villagers and the Chairman contended that in accordance with the said resolution, the Chairman got the road constructed and has withdrawn a sum of Rs.85/- on 6.2.1943 from the Savings Bank Account as evidenced by an entry in Pass Book No.162 V.P. produced before me. In fact, that is the only natural approach road from the village to the Bangalore - Honnavar State Fund road. I cannot accept the contention of Mr. Tangali Krishnaswamiengar that he constructed the road for his private use. On one side there are lands belonging to Thimmapura village, while on the other side, there is his kaval land which is uncultivated. I was also taken to the burial place

Serial
No.

where I could see some traces of the dead having been buried. I am not deciding in this case as to the rights of the villagers for a use of the road or for using the land as a burial ground. I am only concerned about the necessity for acquiring the extent of land in question for a public purpose, viz, for a road and burial ground. I am convinced of the necessity.

32 It is really surprising that this matter should have been disposed of by successive Deputy Commissioners by taking into consideration extraneous matters. There seems to be some ill-will existing between the villagers and Mr. Krishnaswamiengar. The villagers attribute that since they refused to cultivate Mr. T. Krishnaswamiengar's land, he has been resisting the use of his land for purposes of road and burial ground, While, Mr. Krishnaswamiengar alleges that they have been unnecessarily asking for acquisition of this land just to spite him. Mr. Krishnaswamiengar admitted before me that the villageers have no other land to bury the dead. He contends that they have been burying them in their respective holdings. I cannot accept his statement.

33 I am convinced that there is a great need for acquiring the land in question. The Deputy Commissioner may be requested to take immediate further action to acquire the land in question and to put the petitioners in possession of the same.

FO
22
6142

K. 2. 21/1/47
34 *for letter to be sent*
29/2/47
35 *A draft is sent to be*
made in appeal
now 24/2/47 *36* *which requires to be revised*
for 28/2/47

4827 ~~58286~~

37 A revised draft is put up
on consideration

b13

com

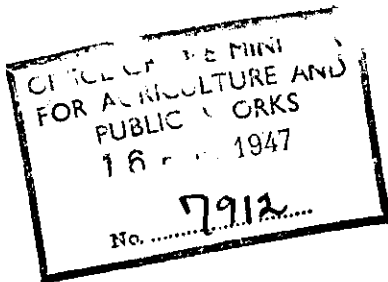
or agreement

1/7/47

4/18-

12818-

8.24.3.47

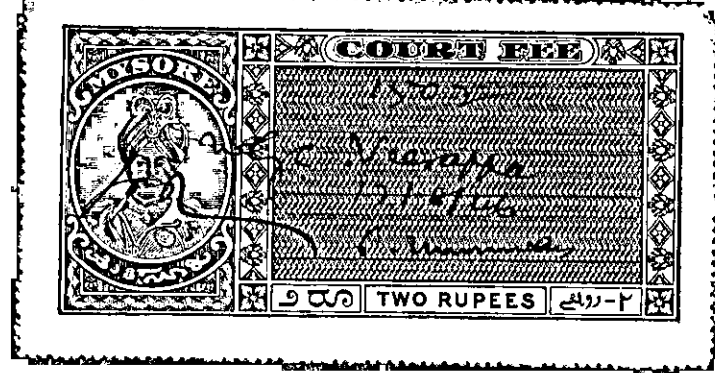


to the ~~Minister~~ Minister

Request him to take immediate
further action to acquire the land
in question and put the V.P.
in possession of the same -

3
4/5/47
for

G. C. VEERAPPA, B.A., LL.B.,
B. S. PUTTASIDDIAH, B.A., B.L.,
ADVOCATES
105, COTTONPET.
BANGALORE CITY.



In the ~~Government of Mysore~~ ^{Government of His Highness}
~~the Maharaja of Mysore~~ ^{BANGALORE.}

RA No. of 1946-1947.

Plaintiff—Petitioner
Appellant

vs.

Defendant—Opponent
Respondent.

H. G. Thimmaiah
Nagappa
Rudappa
Chelchanna

VAKALATNAMA

executed by the.....in favour of

Messrs. G. C. VEERAPPA, B.A., LL.B.,
B. S. PUTTASIDDIAH, B.A., B.L., and
H. N. Shrinivasulu Advocates, Bangalore.

I/we hereby empower the said advocates in person or by proxy, on ^{my}/_{our} behalf, to appear in and conduct the above case, as well as any proceedings arising out of and connected with the same, either during its progress or after its decision, to execute any decree that may be passed therein in ^{my}/_{our} favour, to withdraw, compromise or refer to arbitration the said suit and to do all such acts as may be proper and necessary for the due conduct thereof, including the signing and presentation in court, of the necessary petitions and papers.

And ⁺/_{we} further authorize the said advocates to receive and give receipts for, any money, document, or other movable property, that is, or may become payable to ^{me}/_{us} in the course of the said case or proceedings.

Signature of the
Executant.

Date 17-8-46

I know the executant who has
Signed before me

H. G. Thimmaiah
Nagappa
Rudappa
Chelchanna

Accepted.

G. C. Veerappa
B. S. Puttasiddiah,

Advocates.

Date 17-8-46

H. N. Shrinivasulu
21/8/46

32

BEFORE THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE.

-----:0:-----

L.A. Mis. No. of 1946-47.

Appellants:-

Residents of Thimmapura by Nagappa and others.

Vs.

Respondent:-

Krishnaswami Iyengar.

A f f i d a v i t .

Nagappa, one of the representatives of the appellants, residents of Thimmapura begs to state as follows:-

1. Thimmapura, a village in Kadur Taluk is situated to the south of Bangalore-Honnawar Road about 2 furlongs from the Trunk Road.

2. The residents of Thimmapura, are using the approach road (reaching the trunk road) a part of which runs through Survey Nos. 5 and 2 which belong to one M.R. Krishnaswami Iyengar.

3. The said approach road has been in use by the villagers from time immemorial, and it is the only road that is available for the villagers to reach the trunk road.

4. The said road was metalled on the occasion of the visit of His Highness the Maharaja of Mysore at a cost of Rs. 85/- at the request of the Amildar and the Sub Division Officer

COURT OF

2.

5. The learned Amildar and the Sub Division Officer have recommended the acquisition of the land in pursuance of which, the Village Panchayathi has deposited Rs. 113-9-6.

6. But unfortunately, the learned Deputy Commissioner has disallowed the proposal, which fact has put the residents into great trouble in reaching the trunk road from the village.

7. Even the name board of the village is situated at the place where the said approach road reaches the trunk road.

8. The Burial Ground belonging to the said village is situated on the land which now belongs to the respondent. The burial ground is in existence from hundreds of years even before the land became the property of the respondent.

9. The endorsement served upon the villagers by the learned Amildar of Kadur in respect of the Burial Ground has also done great injustice to the villagers who are faced with the threat of their ancestral Burial Ground being dug out.

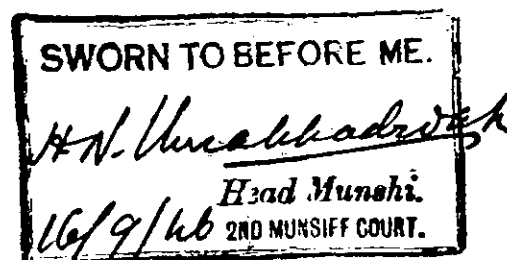
Under the above-mentioned circumstances, the above-named representatives of the appellants begs to request that pending the decision of the Benign Government in the said case a stay order may be issued.

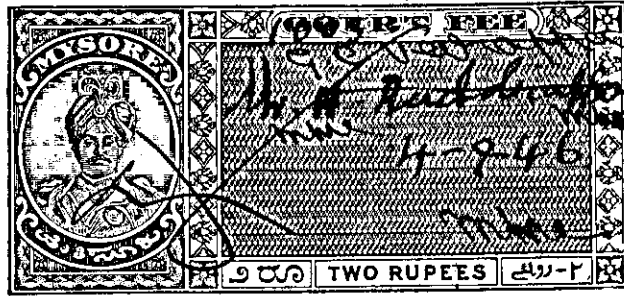
Identified by H.N. Sivam
Bangalore City
Dated 16-9-1946



२० १९४६

petitioner





R 2049

(3)

Before.

The Government of the
del 27/9 His Highness The Maharaja
of Mysore
Bangalore

Appellant

The villagers of
their majesty's
their right & majesty
forces.

to C.S.

27/9/46

~~Respondents:~~
stay application

For the reasons contained
in the affidavit filed here
with the appellants pray that
a stay order, may kindly
be issued

Bangalore
25/9/46
27

G.C. Veenofke
Advocate
for appellants

BEFORE

L.SIDDAPPA, Esqr., B.A.B.L.,
MINISTER FOR PUBLIC WORKS DEPARTMENT
AND AGRICULTURE?
A N G A L O R E

The statement of Thangli Krishnaswamiengar,
Land-holder, Thangli, Kadur Taluk, in reply to the
appeal now pending before your Honour.

1) No notice of this appeal has been sent to him,
but on learning, the records in this case had been
called for by the Revenue Secretary with the report of
the Deputy Commissioner thereon, he had to trace and
find out, where the said appeal was pending and arrange
for his appearance through his counsels.

2) With the kind permission of your Honour to go
through the records given to his counsel Mr.B.Garudachar,
B.A.B.L., Advocate, he has now realised the clear situation
of the case.

3); The opponent's or the Respondent's ancestors
owned some lands as pattadars in Timmapura village also,
and they sold some of them including S.No.72, and still
have got some lands in that village also. In the year
1923-24 the opponent filed a darkhast for S.No.8 of
Timmapura village. Then the villagers objected to
granting that land to the opponent on the ground, that
through that land they have right of way to go, to
Bangalore Honnavar Road and the Thangli Tank. The then
Deputy Commissioner, Mr. D.Srinivasa Iyengar inspected

inspected the land and ordered the villagers to form their road leading to Bangalore Honnavara Road and Thangli Tank and rejected his darkhast, vide the certified copy of that order dated 17-1-1924 herewith filed. It will be seen that they have got facility to proceed to Bangalore-Honnavar Road through that land and through Thangli Gomal lands as contended by them there.

4) S.Nos:2 and 5, situated in Tangli kaval, a separate village have been in the possession of opponents' ancestors for more than sixty years as owners, and they had dug up a well in S. No: 2 and were using it since then. And these two numbers had been over grown with toddy trees and some of the villagers of Timmapura were clandestinely using this portion for grazing their cattle. Then the opponent's servants who were assaulted when taking their cattle to cattle pound had to file a criminal case against some of the present petitioners. The opponent to prevent the applicants from using his lands for grazing purposes as setforth above had to clear the jungle and form a road about eight years back. This action of the opponent created ill feeling between him and the applicants.

The opponent further improved the road by metalling it, and constructing a culvert and a gate and wire fencing on the boundaries to prevent stray cattle of Timmapura - village from entering on his lands (at the points shown in the sketch herewith filed), and this has further increased the ill-feeling above-referred to.

That the opponent has improved ^{it} at considerable cost, viz: at (more than a thousand rupees) is referred to in the orders of the several Deputy Commissioners. Such being

Such being the case the allegation that the applicants have improved this road, at their cost at the time when His Highness passed on the Bangalore-Honnavar road is anything but truth.

5) The applicants with a view to deprive the opponent of his valuable lands began to petition with false allegations that they had their burial ground on S.No.2, and the road on S.No.2 and 5 were required for their use and hence they should be acquired; and when the opponent found some of these applicants, with a view to create evidence began to bury one dead child in S.No. 2. ~~He~~ at once petitioned to the then Deputy Commissioner to order them not to trespass on his land and to bury any more dead bodies thereon. Since then they were prevented from doing so.

6) The opponent begs to draw your Honor's attention to the fact of there existing a road as shown in village maps of Thangli and Timmapura in Survey Numbers 290 and 4 respectively which if taken through S.No.2 ^{or Timmapura village} will connect their village to Bangalore-Honnavar road instead of unjustly pressing for the acquisition of S.Nos.2 and 5 of the opponent. ^{the village maps of Thangli, Timmapura & Thangli Karad are here with present for reference 7)} The first application of the applicants with false allegations, of their need for burial ground and for road on S.Numbers 2 and 5 for acquisition was before the Deputy Commissioner, Mr. B.S.Raghavendra Rao, who on inspection of the spot in the presence of both the parties and hearing them, ordered that the applicants can easily and justly form their own road by the side of the opponent's road, discovering that a road is shown in the village maps of Thangli S.No.290 and Timmapura village S. No.4 and extending over S.No. 2 of

S.No. 2 of Timmapura village, a portion of it, could be easily acquired for it and the parties agreed as is evident from the written order of the said Deputy Commissioner, which is on the file.

The opponent desires to draw your Honour's attention to the incorrect sketch prepared by the Revenue Inspector behind the back of the opponent, which is in many respects, opposed to the real situation as will be seen by the correct sketch herewith filed and the correctness of which will be evident if your Honour inspects the spot.

They failed to take this order of the Deputy Commissioner, in appeal to the then Minister and this order was in 1938-39.

They again malaciously persisted in petitioning the next Deputy Commissioner, Mr. E.V.Ganapathi Iyer as the opponent learns and got an unfavourable order and, they did not take that order also in appeal to the then Minister.

Then they again persisted in petitioning the next Deputy Commissioner, Mr. M.Ismail Sheriff who on inspection of the spot in the presence of both the parties passed an order rejecting their false and malicious application, and they failed to carry that order also in appeal to the then Minister and this order was dated 31-7-1940.

The appellants or the applicants with ill-will, still persisted in applying again to the Deputy Commissioner, Mr. G.N.Nagaraja Rao, with vengeance, praying for the acquisition of S.No.2 and 5 of the opponent. The Deputy Commissioner on inspection of the spot in the presence of the parties concerned ordered that there is no need to acquire these numbers for the purpose stated therein and this order was dated 2-7-1946 and it is only this order and now that

now that they had taken into their head to carry in appeal to your Honour which is now pending. Mr. Nagaraja Rao, the Deputy Commissioner, when asked to send up the records under appeal with his report thereon has reported in detail mentioning how there is no need for acquiring these lands and also showing that their fight is due to ill-will between them and the opponent and stating that with heavy cost the opponent has improved the road etc.

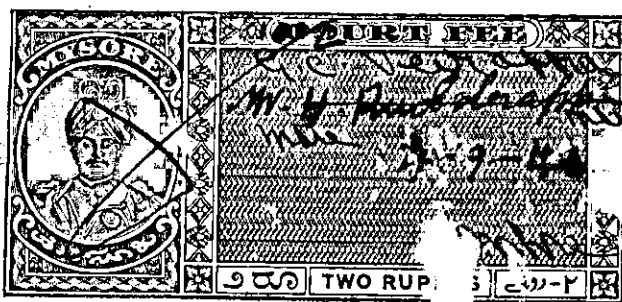
The opponent further begs to state that the appellants have got a well to supply water to the villagers in S.No. 1 of Timmapura close to the village. Such being the case, their claim to have the long existing and improved well of the opponent lying in S.No.2 is grossly unjust and the allegations that a board exists is to be shown, that such a board exists on the Bangalore-Honnavar Road, just to show where the Timmapura village is situate as such boards are found on the main Government Road to show the situation of the village. The S.Nos. 2 and 5 are situated in a different village from Thangli and Timmapura, called Thangli kaval.

8. As setforth in para 7 in detail the several Deputy Commissioners after inspecting the spot and hearing the parties, have come to the conclusion that the claim of the appellants for acquisition of S.No.2 and 5 was not bonafide and not for public purposes, and their claim is due to the existing ill-will between them and the opponent, and that they have other means of opening a road to connect their village with Bangalore-Honnavar Road through S.No.8 of their village as shown in para 3 of this statement and also in paras 6 and 7

The opponent humbly prays in conclusion that under the circumstances set-forth above the appellant's claim for acquisition of S.No.2 and 5 is by your Honour's inspection of the spot malicious and not just and also not for public purposes. And he further humbly and respectfully prays that your Honour in justice and in fairness will reject their appeal and do justice to the opponent

B. G. Annadachari
Advocate
 3 - 2 - 1947

Trishna Sanyal



V.P. 28.46.12 2074/R

office copy
H.S.

132788c

IN THE COURT OF THE REVENUE COMMISSIONER IN MYSORE

The Government of His Highness the
Maharaja of Mysore, Bangalore

R.A. No. of 1946-47.

Appellants:-

The villagers of G. Thimmapura, Kasaba Hobli,
Kadur Taluk by H.G. Thimmiah, P. Nagappa and
Chikkanna and Rudrappa.

The appellants above-named beg to file this appeal against the order of the learned Deputy Commissioner of Kadur in L.Dis. A. L.A. 42/45-46 dated the 2nd July 1946 and the endorsement of the Amildar dated 29th July 1946 for the following among other reasons:-

(1) The village G. Thimmapura is situated to the south of Bangalore-Honnavar Road at a distance of about three furlongs. The village is connected to the 'Main Road' by an approach road a portion of it running through Survey Nos. 5 and 2 of the said village. Survey No. 5 and a portion of Survey No. 2 belong to Mr. Krishnaswami Iyengar, Thangali, Kadur Taluk.

(2) About three years back when His Highness the Maharaja of Mysore visited the District, the approach road was repaired and metalled in the month of February 1943 at a cost of Rs. 85/-. Nominal roll was maintained by the Village Panchayet. It was inspected by the Taluk authorities and money also has been paid by the Panchayet.

(3) In Survey No. 2, there is Burrial Ground

Ground and a well built by the villagers and the way for them also in the above said approach road.

(4) On account of some misunderstandings between Krishnaswami Iyengar and villagers, the said Krishnaswami Iyengar began to put obstructions for the road and the Burrial Ground being used by the villagers and when they brought this fact to the notice of the then Taluk and District authorities, it was ordered that so much of land occupied by the road, Burria Ground and well should be acquired. Accordingly the Village Panchayet deposited Rs. 113-9-6 in Kadur Taluk Treasury in L.R. Nos. 13 and 36 on 4th December 1945.

(5) The said Mr. Krishnaswami Iyengar having come to know about the proceedings, ne seems to have approached the present learned Deputy Commissioner and misrepresented the facts of the case. The learned Deputy Commissioner without issuing notice to the villagers and hearing them, has passed an exparte order. The order is brief and runs as:- *follows:-*
 " The proposal to acquire lands for the above purpose cannot be accepted. The villagers of G. Thimmapura should form the road along the cart-track shown in the map.

(6) The appellants submit that there is no other cart-track for the village from the main road. For the last several decades this is the only road that was in existence and that was being used by the villagers. There is the name board in the place where it is at present for the last so many years.

(7) If that was not the old road, the village panchayet would not have spent so much of money to repair the road.

(8) After the abovesaid ex parte order of the learned Deputy Commissioner, the said Krishnaswami Iyengar began to put up a fence closing the road and the burrial ground with the help of some rowdy Muslims and there was about to be breach of peace in the village.

(9) Under these circumstances the order of the learned Deputy Commissioner is causing grave injustice to the villagers and also there is loss to the Panchayet money.

(10) The said Krishnaswami Iyengar has hundreds of acres there and the acquisition of two acres on one side of his land at the northern end does not inconvenience him in any way. Further a portion of the proposed lands, is kharab.

(11) The order of the learned Deputy Commissioner does not say anything about the acquisition of land for the Burrial Ground. Yet the learned Amildar in the enclosed endorsement issued by him, has said that acquisition of Burrial Ground land is also not accepted.

(12) This portion of the land is being used as Burrial Ground for the last hundreds of years and the present order of the learned Deputy Commissioner and the endorsement of the learned Amildar has upset the whole village.

(13) An inspection of the spot and an enquiry into the allegations made in this appeal will give positive proof to the contention of the appellants.

(14) Therefore the appellants pray that the order of the learned Deputy Commissioner may be reversed and the proposed acquisition of 2 acres of land occupied by the Burrial Ground and approached road in Survey Nos. 5 and 2 may be sanctioned.

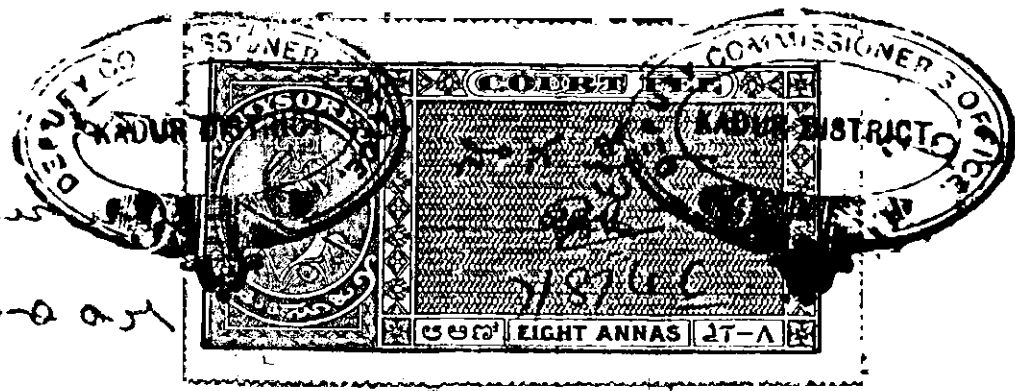
(15) In the meanwhile the said Krishnaswami Iyengar is likely to put up unnecessary obstruction to the villages and this may result in great hardship to both the parties.

Therefore the appellants pray that a stay order may also be issued in the case.

Bangalore
25/9/66
27

G. C. Venkappa
for Appellants.

only
 must not
 ignore to any



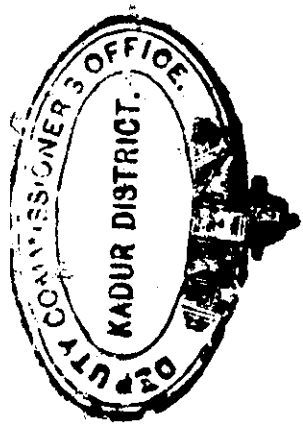
no CA $\frac{8}{4647}$

or

L. D. A. L. A. 42
 16.5.46

6.4.46 of the ~~referred~~
 to the ~~referred~~
 K. D. A. L. A. 42
 to the ~~referred~~
 dated 2nd July
 1946

Reference: Report as per ³ 45.0
 dated 20.6.46 from the ~~referred~~
 Kadur Taluk re. acquiring
 land in S. Nos 2 and 5 of
 Nagodiyar Kondalwar on
 approach to eddial of the
 -fusa.



Memo.

Returned to the ~~referred~~
 Kadur Taluk through the
 Sub-Division Officer,
 Tanke

The proposed to acquire
 lands for the above purpose

can not be accepted. The
 villages of G. Thimmapura
 must form the road along
 the cart-track shown on
 the map

The arrangements accordingly
 on my side were made. The concerned
 records accompany

Sd/- D. G. Balraj.

For Deputy Commissioner
 Bangalore District

(1) Date of office order 28.8.46

(2) Date of order - 7-8-46
 copy at 100

(3) Date of grant 7-8-46

(a) copy made by S. Dehebar

(B) copy made by M. Gundappa

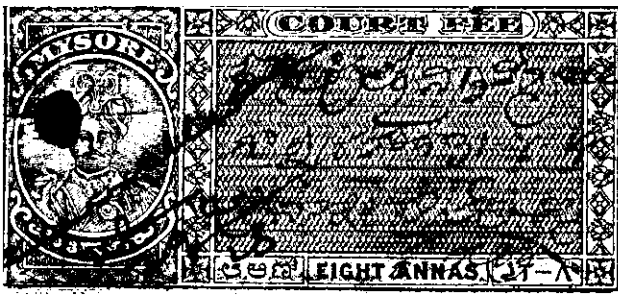
(C) copy made by 0-4-0

(D) copy made by 0-1-0

(E) copy made by

True copy

7-8-46. M. S. W. S. H. N. S.
 100 at the station



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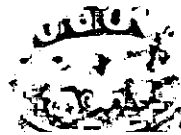
Reply

It is believed, the whole number is not required for the road.
So, let the road be first formed and then if the people are really
enthusiastic in spending money on it and having a good road,
then the question of writing off the assessment may be considered. The
present darkhest may be rejected.

17-1-1924

(50) B. Brannasa Sengas.
Deputy-Commissioner.

True copy
N. N. - an aim ved
A. Amilda



Memo.

Copy applied on 26-9-24
Copy ready on 29-4-25
Delivered on 17-8-25
Number of words. 70
Copying fees 0-2-0
Comparing fees. 0-0-3

Copies by K. Thevaranna
compared by K. Thevaranna

BEFORE THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA
OF MYSORE, BANGALORE.

R.A.No. of 1946-47.

Appellants:-The Villagers of G.Timmapura, represented
by H.G.Thimmiah, P.Nagappa, Chickanna and
Rudrappa.

Versus

Respondent:-Thangli Krishnaswamiengar.

COUNTER-AFFIDAVIT.

I, Thangli Krishnaswamiengar, the respondent
abovenamed, do hereby solemnly affirm and state as
follows:-

1 The allegation that the village of G.Timmapura is
connected to the Bangalore-Honnavar Road by an approach
road, a portion of it running through Survey Nos.5 & 2
of the said village, is false. No road passes through
Survey Nos.5 & 2 of G.Timmapura village. The road that
passes through Survey Nos.5 & 2 of Thangli Kaval
Village belonging to the respondent is his own private
road which he formed about 10 years ago.

2. The allegations that the residents of Timmapura
are using the said approach road to reach the trunk
road and that the road has been in existence from time
immemorial and that it is the only road available for
the villagers, are all false. The road is a private
road leading to the lands of the respondent and has
been fenced off by the respondent with barbed wire
fencing to the west i.e., on the side of G.Timmapura
village. ~~The~~ Indeed in para 8 of the Appeal Memo,
the appellants themselves are admitting the wire
fencing, though they have made a false and scandalous
allegation that the same was done with the help of
Mohammedan rowdies and that there was imminence of
breach of peace, at the time the fence was put up.

3. The villagers of G.Timmapura far from using this road are reaching the trunk road passing through Survey No.8 which was reserved without being disposed off for cultivation to facilitate the villagers forming a road thereon. They are also using the Gomal portion of Timmapura village to reach the trunk road at the other end.

4. It is also false that the respondent's road was repaired and metalled at the expense of the village panchayat funds on the occasion of the visit of His Highness the Maharaja of Mysore. It is notorious the panchayat funds are shown to have been spent ~~that~~ without the same being actually spent. It is incredible to a degree that village panchayat funds could be spent over a road which admittedly runs in the ~~impar~~ private property belonging to the respondent and which property is situated not within the bounds of Timmapura but outside it in Thangli Kaval. I cleared the jungle, formed the road, got a culvert put up at the approach, got the side drains excavated and metalled the road at a cost of over Rs.1,000/-

5. It is also false that in Survey No.2 there is a burial ground and a well built by the villagers. The well in Survey No.2 was constructed by my ancestors and is being kept in ~~poor~~ state of repairs by the respondent. As it will be clear from the appended statement filed by the respondent, the villagers of Timmapura in order to create evidence attempted to bury a dead body of a child, but this was effectively prevented.

6. The appellants have not stated significantly what the misunderstandings between me and them are. I had

to fence off the road against the Timmapura villagers allowing their cattle to graze my lands. At the instance of my servants the ^{P. L. S.} ~~appellants~~ had filed cattle trespass case against the villagers.

7. Equally significantly, the appellants have not stated when the Taluq and District authorities ordered the acquisition of so much of land referred to in para 4 of the Appeal Memo. As is clear from the details submitted in the Respondent's Memo, successive deputy commissioners have found the complaint of the villagers unjust and passed orders against them.

8. When the Revenue Inspector came to ask me last year about my claim and ~~xxxx~~ valuation of my land in Survey Nos. 2 & 5 of Tangali village that I was put an enquiry and having learnt that there was a proposal to acquire the same behind my back, I approached the Deputy Commissioner and acquainted him with all the previous facts in order to impress upon him the utter malafides actuating the villagers. The Deputy Commissioner who had all the records and who had the version of both the parties passed the order. The order cannot in the circumstances be challenged on false averments such as the ones made in para 5 of the Appeal Memo.

9. The allegation in para 6 of the Appeal Memo that there is no other carttrack for the village assumes that the present track is the village cart track. It is not so as is clear by the circumstance that the same is not shown in the Survey Plan of the villages. On the other hand, in the Survey Plan of Thangli village, it will be noticed that the cart track to Timmapura village runs on Survey No. 290 of

Thangli village. The existence of the name board at the point is only an accident and cannot confer any right to the villagers, as the name board is put up just as several name boards are put up to indicate only situations of villages.

10. It is respectfully submitted that as is clearly explained in the annexed statement of the respondent the proposal for acquisition is mala fide and ultra-vires of the powers of the village panchayats.

Irrespective of technicalities, there is no justice in denying a private citizen of the ~~right~~~~that~~ road that he has formed and the well that he is using for the irrigation of his lands, more particularly when there are other roads connecting the approach road and there is the willage well existing in Survey No.1 of Timmapura village.

11. At all events, as the grievance of the villagers is that no opportunity was given to them before the Deputy Commissioner to adduce evidence, the respondent is quite willing that the appellants may be given the opportunity asked for, so that both the appellants and the respondent will be enabled to place all the facts by means of oral and documentary evidence in support of their respective contentions and the Government would then be in a position to appraise the relative merits of the contentions of the parties.

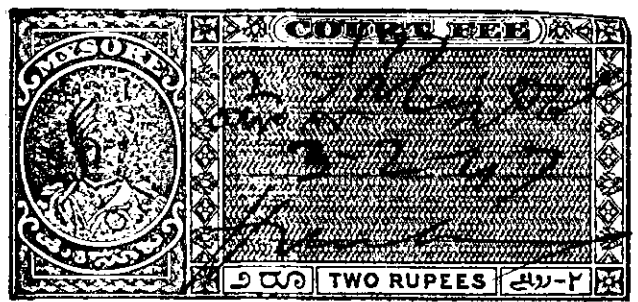
12. It is just and expedient in the circumstances and for the reasons mentioned in the accompanying statement and sketch which may be read as part and parcel of this affidavit that Government may be pleased to reject the application of the appellants for acquisition of any portion of the respondent's lands.

~~Advocate for respondent.~~
Bangalore,
3rd February, 1947.

Respondent's lands.

W. J. [Signature]
Respondent

Sworn before me this 3rd day, Feb 47
[Signature]
at 3/2/47



Before the Court of H. H. His Majesty
of Mysore.
~~In the Court of the~~

BANGALORE

No.

of 194

Plaintiff

Defendent

Petitioner

Opponent

Appellant

Respondent

H. G. Timmah Thangli
& others Vs Krishnaswamy Sengar

I/We the above-named, do here by appoint and retain Mr. S. K. Venkatarangaiengar, B.A., LL.B., Mr. B. ~~Venkat~~ Garudachar. byengar, B.A., LL.B., Advocates, to appear for me/us in the above suit proceeding, petition or appeal, and to conduct and prosecute or defend the same and all proceedings that may be taken in respect of any application for execution of any decree or order passed therein. I/We empower my/our Advocates to appear in all miscellaneous proceedings in the suit or matter till all decrees or orders are fully satisfied or adjusted, to obtain the return of documents, draw any moneys that may be payable to me/us in the said suit, or matter, withdraw, compromise or refer to arbitration the suit, and take all other steps that they may deem proper in the matter. And I/we undertake to ratify and confirm all legal acts done or caused to be done, and to pay all fees, costs, charges and expenses which may be incurred by my/our said Advocates in the case by virtue of these presents.

In witness whereof I/we have hereunder set my/our hand
this 194

Accepted
B. Garudachar
S. Venkat

[Signature]

Advocate

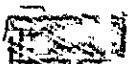
for respondent

Signed by the executant
in my presence

B. Garudachar
Advocate

EXTRACT FROM VILLAGE MAPS OF TANGLI, TA

Shows:-

 The Respondants Lands.

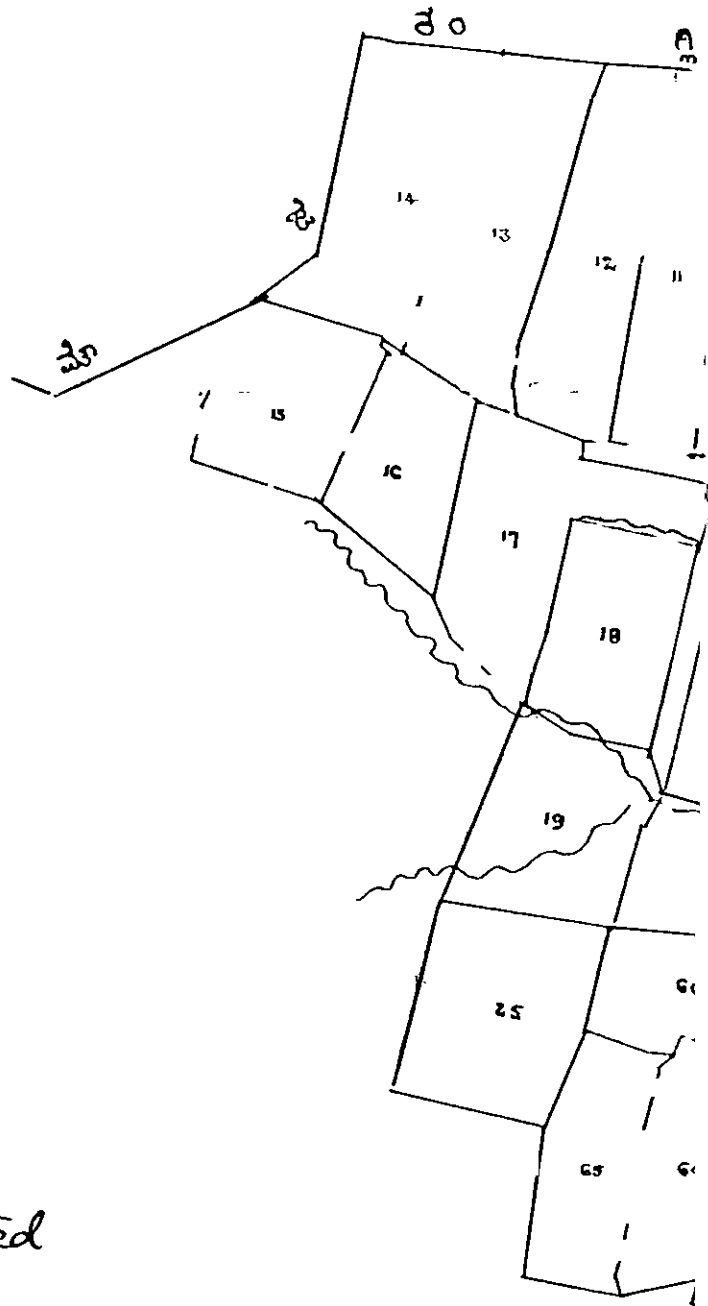
 Shows: The Survey nos of
Timmaphura Village.

Shows The Voni in
Timmaphura Village

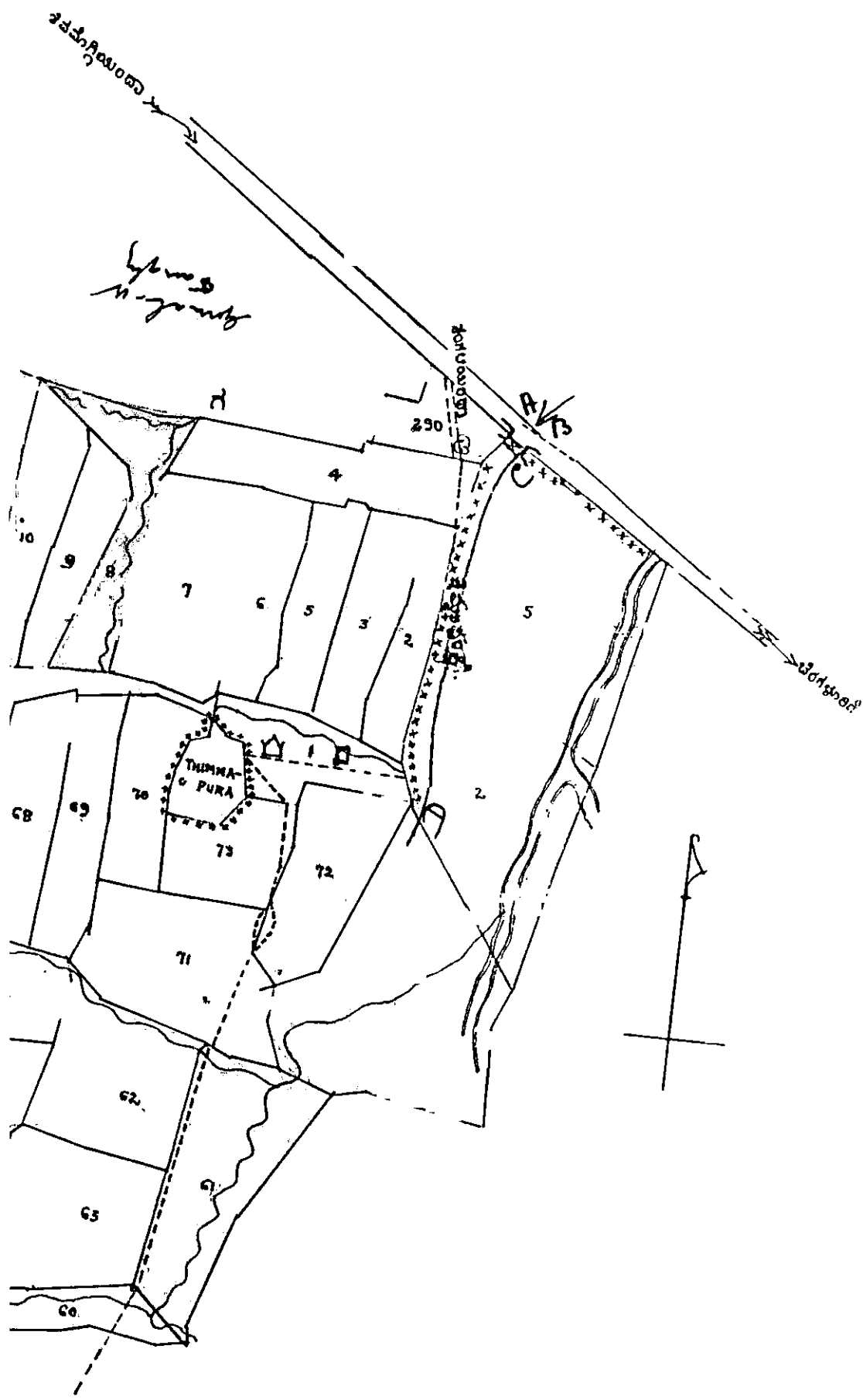
X X X. Shows Barbed fencing
Constructed by Respondent.

A. & B. Shows The Culvert

C To D Shows The Road Constructed
by the Respondant



INGLI KAVAL AND TIMMAPURA VILLAGES.



SUBJECT

Diary No. of letter replied to.....

Section *V.P.*File No. *28.46*Serial No. *13*

General and Revenue Secretariat

()
the 194

No.

1.54.61

To.

*2.54.62 Acknowledgment
to G.C. Venappa Esq. B.A.L.B.
C.H. Dept. Bangalore
re Dr. Madur Dist.**Sir,*

Date of issue.....

*2.11.46**I am directed to*

Signed by.....

*In G. R.R.**forwarded herewith a
(inquire).
notification, dated 27.9.1946
received ~~on 27.9.1946~~ by
from Messrs H.G. Thimmaiah and
owners through their
Credent Mr G.C. Venappa,
B.A.L.B., Bangalore, Blare
stating that one Mr. RA
Krishnaswami Gengar,
owner of the 8 Ma. 5 and 2
of G. Thimmaiah, Kasaba
Nabli, Madur Taluk.*

List of enclosures.....

Copied by.....

Examined by.....

No. 2.7473 of 21.11.46

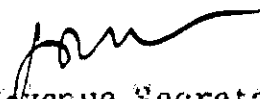
Revenue Department.

The Deputy Commissioner,
Haver District, Chikmagalur.

Sir,

I am directed to invite reference to this office letter No.5461 dated the 2nd Novr 1946 calling for a report on the petition of Messrs H.C. Chimmappa and others requesting that C.Nos 5 and 2 of C.Chimmapura, Haver taluk may be acquired for the cart track leading to the burial ground at the place and to request you to be so good as to forward the report early.

I have the honour to be,
Sir,
Your most obedient servant,


For Revenue Secretary to Govt

No. A4-C.1957/46-47.

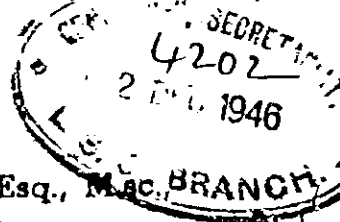
OFFICE OF THE DEPUTY COMMISSIONER,
KADUR DISTRICT.

Enc.

Dated Chikmagalur 29th Nov. 1946

FROM

G. N. Nagaraja Rao, Esq., M.A.,
Deputy Commissioner,
Kadur District.



TO

J.B.Mallaradhya, Esquire., M.A.,
Secretary to Government,
Revenue Department,
Bangalore.

SIR,

Subject:- Appeal petition of Messrs.H.G.Thimmappa
and others of G.Thimmapura village requesting to acquire
land in Survey Numbers 2 and 5 for a cart track etc.,

With reference to your letter No.L.7473 dated
21st November 1946 requesting for submission of a report
on the above subject, I have the honour to state that a
report with the connected records called for from the
Amildar, Kadur Taluk is not yet received in this office.
The Amildar has been reminded to day to submit the

-:2:-

the records at once. On receipt of records, the report called for will be submitted as desired.

I have the honour to be
Sir,
Your most obedient servant,


Deputy Commissioner,
Kedur District.

HPR.2.

V.P. 28.46.14



No.A4-C.1957/46-47. Office of the Deputy Commissioner,
Enc. 2 files. Kadur District,
Chickmagalur, dated the 14th December 1946.

From

G.N.Nagaraja Rao, Esquire., M.Sc.,
Deputy Commissioner,
Kadur Division,
Chickmagalur.

To

J.B. Mallaredhya, Esquire., M.A.,
Secretary to Government,
Revenue Department,
Bangalore.

Sir,

Subject:- Appeal petition of Messrs.H.G.Thimmaiah and others
of G.Thimmapura village in Kadur Taluk requesting to acquire
land in S.Nos. 2 and 5 of the village for cart track and
Burialground.

Adverting to your letter No.L.5461/Petn. dated 2-11-1946
forwarding the petition of the Villagers of G.Thimmapura village
in Kadur Taluk and requesting for submission of a report on paras
6 and 12 of the petition with the connected records on the above
subject, I have the honour to submit herewith the connected records
ending with Kadur Amildar's report No.Acqn.P.R.1/46-47 dated 4th
December 1946 for your perusal and to state as follows:-

As stated in the petition, Survey Numbers 5 and 2 through which
the alleged approach road runs, belong to Tangli kaval and not to
G.Thimmapura village. Mr.Tangli Krishnaswami Iyengar is the owner of
both these Survey Numbers. It is seen from the enclosed sketch that
the villages G.Thimmapura and Tangli kaval adjoin each other. As
alleged by the petitioners, there is no cart track running in S.Nos.
2 and 5 of Tangli kaval shown in the village map. It is learnt
that this cart track was made by Mr.Krishnaswami Iyengar for his

for his bonafide use, at a great expense and the villagers propose again and again that this cart track should be acquired for the use of the village. It is disclosed from the previous sus file of this office that the cart track shown in the map runs in S.No.61 of G.Thimmapura village which is being regularly used by the villagers even now. It is on account of misunderstandings between Mr.Krishnaswami Iyengar and the villagers that this question of acquiring the cart track in S.Nos. 2 and 5 of Tangli kaval is coming up again. My predecessors in office Messrs.B.S.Raghavendra Rao and Ismail Sheriff after inspection of the spot in the presence of both the parties have passed orders that there is no necessity of acquiring the alleged carttrack opened out in S.Nos. 2 and 5 of Tangli kaval and that the villagers may make use of the adjoining path running in S.No. 61 of G.Thimmapura village. The orders passed by them are flagged A and B respectively for perusal. I have also inspected the spot and found the proposed acquisition unnecessary.

As regards the points raised in para 12 of the petition, there is no burial ground shown as existing either in S.No.5 or 2 of Tangli kaval. But the portion of land in S.No.2 alleged to be the burial ground by the villagers is mere kharab and is unsuited for the purpose. Both my predecessors have opined that in case of necessity for a burial ground, a suitable land may be selected in consultation with the Village Panchayet and an approach and a well provided if necessary. This point has not been perused.

The proposed path to be acquired is at a low level and the maintainance of the road will be costly as it does not run through gravelly soil. On the other hand, the recognised cart track which is 100 yards away from the proposed path is on a not even ridge and the soil is gravelly. If the road made by Mr.Krishnaswami Iyengar has to join the Village, many other land belonging to Thimmapura will have to be acquired. There will be unnecessary waste of funds if the petition of the Villagers is

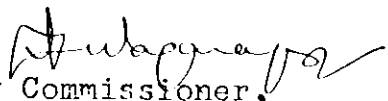
-:3:-

of the villagers is given effect to.

In these circumstances, I am of opinion that the contention of the villagers is untenable.

Both the file of records received from the Amildar, Kadur Taluk and this Office Sus File ending with R.Dis.Acqn. 27/38-39 dated 31st July 1940 accompany for favour of reference and return,

I have the honour to be
Sir,
Your most obedient servant,


Deputy Commissioner,
Kadur District.

H.P.R.

H.P.R.

1412 116

2 Siddappa Esq B.A./B.L.
Minister for Agriculture &
Public works
Bangalore

From Mr B. Ramachandra B.A./B.L.
advocate
Shimoga

Dear Sir

In the case of the petitioners of
Tannapura village, Kadur Taluk,
praying for the acquisition of the
land of Mr Tangi Kuttanarayana
a Vakalat requested by me & Mr
S. K. Venkataranganna, advocate,
in favour of Mr Kuttanarayana, has
been filed, after having the case to be
with you as no notice had been given
to me about the authorities as regards
the petitioners, petition filed before you
you were pleased to hear Mr Venkatar-
anganna & when he pressed for further
time for his appearing with full
facts to be presented before you
you were pleased to postpone the

hearing to either the 20th or 21st instant
+ in which I am grateful I shall
be present in person & will try to
place my case, in full with relevant
facts & appeal to you to do justice
I hope you will not deny me a
hearing on the 20th or 21st instant. (P.S.)
Excuse trouble

Yours
obediently
B. Ramdas
advocate

P.S. Mr. Gandachar in another letter addressed
to me requests that 22nd instant may
kindly be fixed for his interview

15/1/47
De Benataranji
Advocate,

20th 21st and 22nd are convenient to
me ~~But 22nd not~~
to counsel ~~at 1.30 P.M.~~ I shall hear
on 20th 21st and 22nd this case on the 22nd
inst. at 1.30 P.M.
15/1/47

OFFICE OF THE MINISTER FOR PUBLIC WORKS.

Dear Sir, D O 304 / 46-47
19 1 47

I am desirous to say
that the Minister will hear
the ~~case~~ appeal relating to the
proposed ~~for~~ ^{in connection with the} acquisition of
~~appeal~~ ⁱⁿ S. Nos. 2 & 5 of Chinnappur
at 130 P. M. on the 22nd inst
village in Madhavpur ^{at the}
that you may please be
present at the time

Yours Sincerely
[Signature]

1) G. C. Veevappa Esq B.A., LL.B.
Advocate B. City.

2) S.H. Venkataranga Srinivasan, Esq
B.A., LL.B.
Advocate B. City.

GOVERNMENT OF MYSORE

T ^{gram}
phone

OFFICE OF

No.
Encls.

L 10324-5-1

the Revenue Secretary to Govt,
Old Public Offices,

Bangalore

Dated, the 21st January 1947

To

~~1.G.C.Veerappa, Esq., B.A., LL.B.,~~

~~Advocate, Bangalore City~~

2.S.K.Venkataramangaiengar Esq., B.A., LL.B., Advocate,
Gandhi Nagar, Bangalore City.

Sir,

Subject:-Acquisition of lands in S.No. 1 and 2 of
G.Thimmapura village, Kadur Taluk.

I am directed to inform you that the above case
will be heard in the Chambers of the Minister for
Public Works and Agriculture on the 3rd February at 2 P.M.
by the Minister, instead of on the 22nd Jan, 1947.

Yours faithfully,



4827
GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

General and Revenue Secretariat.

No.

12818 / V.P. 28.46.15

Dated Bangalore,

24/3/47

FROM

The Secretary to the Government of His Highness the Maharaja of Mysore.

Revenue Department

TO

The Deputy Commissioner,
Kadur District, Chikkamagalur.

Sir,

Subject:- Acquisition of lands in S.Nos 2 and 5 in G.Thimmapur village, Kadur Taluk for a burial ground and the formation of a road.

With reference to the correspondence ending your letter No.A.4. 1957/46 dated the 14th December 1946, forwarding the records relating to the above subject, I am directed to state that the spot was visited on 10-1-1947 by the Minister for Public Works and Agriculture along with you and the parties concerned. He was convinced of the fact that the request of the petitioners for the acquisition of the lands for the above purposes was reasonable. In fact, the road in question has been in existence for the past over seven or eight years. The Chairman of the village panchayet produced before the Minister the proceedings of the village panchayet dated the 6th September 1938. They have resolved at the meeting that, on the request made to the Deputy Commissioner, when he visited the place on 17-1-1938, the proceedings initiated for acquiring an extent of 2 acres and 22 guntas of land for a burial ground and a well and 0-18 guntas for the formation of the road. They have further resolved that the cost of the acquisition may be met out of the village panchayet funds and later recouped from the villagers. They have also prayed that they may be exempted from paying the cost towards the land shown as kharab.

Subsequently two more resolutions have been passed on 15-1-1943 and 1-2-1943 respectively, authorising the chairman of the village panchayet to arrange for the formation of an approach road from the village to Bangalore-Honnavar road and to meet the cost thereof by preparing an estimate on the nominal roll to be maintained therefor. The villagers and the village panchayet Chairman contended that, in accordance with the said resolution, the chairman got the said road constructed and has withdrawn a sum of Rs 85/- on 6-2-1943 from the Savings Bank Account as evidenced by an entry in the pass book No.162 V.P. produced before the Minister at the time of his visit to the village. In fact, on inspecting the place, it was found that it was the only natural approach road from the village to the Bangalore - Honnavar State Fund Road. In the circumstances the contention of Mr.Tangli Krishnaswami Iyengar that he constructed the road for his private use cannot be accepted. On one side there are lands belonging to Thimmapur village while on the other side there is his kaval land which is uncultivated.

The Minister also visited the place proposed for the burial ground. It was found that there were traces of the dead having been buried in the locality. Mr. Krishnaswami Iyengar himself admitted that there was no other burial ground and that the villagers were burying the dead in their respective holdings which cannot be accepted. The villagers on the otherhand, contended that the owner of the land is putting forth objections only because they have refused to cultivate his lands, and Mr. Krishnaswami Iyengar alleges that they have been unnecessarily asking for the acquisition of the land just to spite him.

Apart from these extraneous matters which need not be considered, it is seen that there is great need to acquire the said land for a public purpose viz., for the road and the burial ground. ~~The Deputy Commissioner, Kadar District is accordingly requested~~ to take immediate ~~action~~ further action to acquire the land in question and to put the village panchayet in possession of the same.

Records accompany.

I am acceding to request

I have the honour to be,
S i r,
Your most obedient servant,

[Signature]
For Revenue Secretary to
Government.

[Signature]

9

ndm